

NOTIFICATION.

No. 88—L. C., dated 29th September 1910.

Under Rule 40 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying report of the Select Committee on the Mysore Limitation Bill is published for general information with a list showing the amendments effected by the Select Committee therein.

By Order,

S. HIRIYANNAIYA,

Secretary, Mysore Legislative Council.

Report of the Select Committee on the Mysore Limitation Bill.

We, the members of the Select Committee appointed for the consideration of the Mysore Limitation Bill, have the honor to submit the following report to the Council.

We have considered the Bill and beg to recommend that it be passed with the few changes made by us.

THE FIRST SCHEDULE.

Article 11.

We have slightly recast the wording of this article and have inserted words so as to make the article applicable only to cases where claims have been disposed of *after investigation*. This is in accordance with the existing case law on the point.

Article 12.

The reference to "a Patni Taluk" is considered unnecessary as no such tenure is in vogue in the State. Clause (d) and the explanation thereto have accordingly been omitted.

Articles 15 and 16.

We have omitted Article 15, as no such suit as is contemplated therein can lie against the Government. Article 16 seems to provide for some of the cases coming under Section 222 (a) of the Mysore Land Revenue Code. It is desirable that provision should be made for all the cases falling under that sub-clause. We have therefore changed Article 16 as follows:—

First column.

Against Government, under Section 222 (a) of the Mysore Land Revenue Code.

Third column.

When the claim or payment is made.

Articles 33, 34 and 35.

The two latter articles have been separately enacted in British India to make up for the deficiency in the numbering that occurred owing to the omission of the two previously existing articles, namely, those relating to suits for the recovery of a wife and for the restitution of conjugal rights. We have thought it better to include all the cases provided for in the three articles in a single article as follows:—

"33. Against an executor, administrator or other representative of a deceased person for wrongs done by such person, where the executor, administrator or other representative is by law liable."

Articles 111, 112 and 121.

We have made certain verbal changes in these articles and have also, for the reasons stated for the change in Article 12, omitted the reference to "Patni Taluk" in Article 121.

Article 122.

As no suits can be instituted in Mysore on a judgment obtained in Mysore, we have omitted from this article the words "a judgment obtained in the territories of Mysore, or."

Article 152.

We have added the words "or a Subordinate Judge" after the words "a District Judge" in this article, so as to provide a rule of limitation for cases where appeals lie direct to the Court of a Subordinate Judge under any order that may be passed by Government under Section 14 of the Mysore Civil Courts Regulation.

Article 166.

This article as originally framed applied to all cases of applications for setting aside a sale in execution of a decree. It was brought to our notice by the Chief Court that such a wide provision may lead to hardship in certain cases, as for instance when a judgment-debtor who has had no notice under Section 248 of the existing Civil Procedure Code seeks to have the sale conducted behind his back set aside. Under the existing law, he would have three years' time to apply, but under the article in the Bill he would have to make the application within thirty days. We have therefore limited the scope of this article so as to make it applicable to those cases only to which a period of thirty days or sixty days now applies (cases falling under Articles 166 and 172 of the existing Limitation Act). We are of opinion that cases of fraud should continue to be subject to a rule of three years as under the existing law of limitation.

As under the General Clauses Regulation, the word "Mysore" has been defined to be "the territories of Mysore" we have substituted the former for the latter expression wherever it occurs.

As no changes of an important character have been made by us in the Bill, we consider it unnecessary to republish it.

A list showing all the amendments effected by us is appended.

29th September 1910.

H. V. NANJUNDAYYA.
S. NARAYANA RAO.
C. SRINIVASIENGAR.
A. RAMANNA.

List of changes made by the Select Committee on the Mysore Limitation Bill.

[N. B.—The portions in square brackets are those deleted by the Select Committee and those in italics newly added.]

Clause I (2).

"It extends to the whole of [the territories of] Mysore; and"

Clause 2.

(6) "foreign country" means any country other than [the territories of] Mysore:

Clause 11.

Suits on foreign contracts.

"(1) Suits instituted in [the territories of] Mysore on contracts entered into in a foreign country are subject to the rules of limitation contained in this Regulation.

"(2) No foreign rule of limitation shall be a defence to a suit instituted in [the territories of] Mysore on a contract entered into in a foreign country, unless the rule has extinguished the contract and the parties were domiciled in such country during the period prescribed by such rule."

Clause 13.

Exclusion of time of defendant's absence from [the territories of] Mysore.

"In computing the period of limitation prescribed for any suit the time during which the defendant has been absent from [the territories of] Mysore shall be excluded."

Clause 19.

(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but, subject to the provisions of the Indian Evidence Act, 1872, as [applicable] *applied* to Mysore, oral evidence of its contents shall not be received.

Clause 29.

Nothing in this Regulation shall—

“(a) affect the Indian Contract Act, 1872, Section 25, as [applicable] *applied* to Mysore;

(b) affect or alter any period of limitation specially prescribed for any suit, appeal or application by any special or local law now or hereafter in force in [the territories of] Mysore.”

Clause 30.

Provision for suits for which the period prescribed is shorter than that prescribed by the Indian Limitation Act, 1877, as [applicable] *applied* to Mysore.

“Notwithstanding anything herein contained, any suit for which the period of limitation prescribed by this Regulation is shorter than the period of limitation prescribed by the Indian Limitation Act, 1877, as [applicable] *applied* to Mysore, may be instituted within the period of two years next after the passing of this Regulation, or within the period prescribed for such suit by the Indian Limitation Act, 1877, whichever period expires first.”

THE FIRST SCHEDULE.

2. For compensation for doing or omitting to do an act alleged to be in pursuance of any enactment in force for the time being in [the territories of] Mysore.

11. By a person against whom [any of the following orders] *an order* has been made, under the Code of Civil Procedure after an investigation of a claim preferred to, or an objection made to the attachment of, property attached in execution of a decree, to establish the right which he claims to the property comprised in the order.

[Order under the Code of Civil Procedure on a claim preferred to, or an objection made to the attachment of, property attached in execution of a decree.]

12. To set aside any of the following sales:—

(a) Sale in execution of a decree of a Civil Court;

(b) Sale in pursuance of a decree or order of Deputy Commissioner or other officer of revenue;

(c) Sale for arrears of Government revenue, or for any demand recoverable as such arrears [;]

[(d) Sale of a Patni Taluk sold for current arrears of rent.]

Explanation.—In this article, “patni” includes any intermediate tenure saleable for current arrears of rent.]

[15. Against Government to set aside any attachment, lease or transfer of immovable property by the Revenue authorities for arrears of Government revenue.]

One year.

The date of the order.

[When the attachment, lease or transfer is made.]

16. [Against Government to recover money paid under protest in satisfaction of a claim made by the Revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears.] One year. When the claim or payment is made.

Against Government under Section 222 (a) of the Mysore Land Revenue Code.

33. [Under any law for the time being in force enabling executors, administrators or representatives to sue and be sued for wrongs done to or by a person deceased against an executor.]

[34. Under the same law against an administrator.]

[35. Under the same law against any other representative.]

Against an executor, administrator or other representative of a deceased person for wrongs done by such person, where the executor, administrator or other representative is by law liable. Two years.

When the wrong complained of is done.

87. By the assured to recover premia paid under a policy [avoidable] voidable at the election of the insurers.

103. By a Muhamadan for exigible dower ([Mu'wajjal] *Mu'ajjal*)

111. By a vendor of immovable property [for personal payment of] to enforce personal liability for unpaid purchase money.

112. For a call by a company registered under any [Statute or Act or Regulation] law in force.

121. To avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue [or in a patni taluk] or in other saleable tenure sold for arrears of rent.

122. Upon [a judgment obtained in the territories of Mysore, or] a recognizance.

152. Under the Code of Civil Procedure to the Court of a District Judge or a Subordinate Judge.

166. Under the same Code to set aside a sale in execution of a decree on the ground of irregularity in publishing or conducting the sale or on the ground that the decree-holder has purchased without the permission of the Court or on the ground that the person whose interest in the property purported to be sold had no saleable interest therein.

182. For the execution of a decree or order of any Civil Court not provided for [by Article 183 or] by Section 48 of the Code of Civil Procedure.

Twelve years. The date of the [judgment or] recognizance.

THE SECOND SCHEDULE.

1877. XV

The Indian Limitation Act, 1877, as The whole of [extended] applied to Mysore by the Government of India Notification, Foreign Department, Judicial No. 174—J., dated the 26th October 1877.

1879. XII

The Registration and Limitation Acts Amendment Act, 1879, as [introduced into] The whole of Section 108. applied to Mysore by the Government of India Notification No. 320, dated 19th November 1879.